

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ESPERION THERAPEUTICS, INC.

Plaintiff,

v.

DAIICHI SANKYO EUROPE GMBH.,

Defendant.

Civil Action No: 1:23-cv-02568

**DECLARATION OF SHELDON KOENIG
IN SUPPORT OF ORDER TO SHOW CAUSE FOR
SERVICE OF PROCESS BY EMAIL ON DEFENDANT**

I, Sheldon Koenig, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am President and Chief Executive Officer at Esperion Therapeutics, Inc. (“Esperion”), Plaintiff in the above-captioned action. I became the Chief Executive Officer in May 2021. Prior to May 2021, I was the Chief Operating Officer at Esperion, a position I began in December 2020. I am fully familiar with the facts set forth in this Declaration, which is based upon my personal knowledge.¹

2. On January 2, 2019, Esperion executed the License and Collaboration Agreement with Defendant Daiichi Sankyo Europe GmbH (“DSE”) (the “Agreement”).

¹ Capitalized terms not otherwise defined herein shall have the meanings set forth in Esperion’s March 27, 2023 Complaint (Dkt No. 1).

3. Since I started at Esperion in December 2020, Esperion and DSE have regularly and primarily been communicating by email. To the best of my knowledge, Esperion and DSE have primarily been communicating by email since their relationship began prior to executing the Agreement in 2019. All such communications have been in English.

4. Since the dispute underlying the above-captioned action began in March 2023, Esperion and DSE have continued to communicate primarily by email.

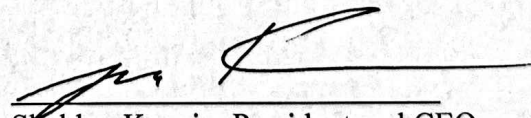
5. On March 8, 2023, Andres Berger, Senior Director of International Partner Management of DSE emailed Patti Vanston and Benjamin Looker, respectively Executive Director, Sales Learning and Development and General Counsel of Esperion regarding a Regulatory Milestone Payment to which Esperion may be entitled under the Agreement.

6. That same day, Esperion emailed Mr. Berger explaining that it believed it “will be entitled to receive a \$300 million milestone payment from DSE” under the Agreement.

7. On March 14, 2023, Esperion received an email from Mr. Berger stating that DSE believed that it would not be required to pay Esperion any Regulatory Milestone Payment under the Agreement.

8. On March 27, 2023, Esperion filed a Complaint for Declaratory Judgment against DSE relating to Esperion’s right to a \$300 million Regulatory Milestone Payment, as defined in the Agreement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.


Sheldon Koenig, President and CEO

Dated: April 3, 2023